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## Facsimile

To	Company	Fax Number
1 Office of PCT Legal Administration	United States Patent and Trademark Office	571-273-0459

Date Client/Matter Number  
October 25, 2004 053735-00056  
 From Attorney Number  
Linda S. Chan 20093  
 Phone Fax  
212-940-8712 212-940-8986 / 212-940-8987

Total number of pages, including cover letter: 9  
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Comments  
 U.S. Application No.: 09/331,705  
 PCT No.: PCT/EP97/05792  
 Our Ref.: 2698/MEINKE/PCT (053735-00056)

**RECEIVED**

25 OCT 2004

## ENCLOSURES:

Legal Staff  
International Division

- (1) Request for Entry and Consideration of Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)
- (2) Return Postcard Stamped August 13, 2004
- (3) Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b) dated August 13, 2004 (with attachment)

### For Messenger Department Use Only

Your fax has been sent. Attached is your original.

Date Time

Signature

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor : **ESCH, Uwe et al.**  
Title : **Hydraulic Circuit for a Hydraulic Excavator**  
Serial No. : **09/331,705**  
PCT No. : **PCT/EP97/05792**  
Int. Filing Date : **October 21, 1997**  
Priority Date : **December 19, 1996**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at (571)273-0459 on the date shown below  
Name: Linda S. Chan  
Signature:   
Date: October 25, 2004

October 25, 2004

MAIL STOP: PCT  
Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Request for Entry and Consideration of Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)**

To the Commissioner for Patents:

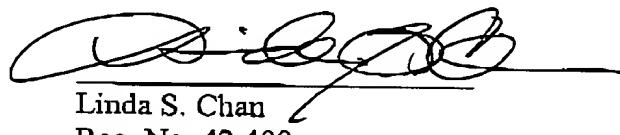
On August 13, 2004, Applicant filed a "Request for Reconsideration of Earlier Filed Petition under 37 CFR 1.137(b)" (hereinafter "Request for Reconsideration"). A review of the PAIR (Patent Application Information Retrieval) information for the above-referenced application did not show an entry for the Request for Reconsideration filed on August 13, 2004. Applicant hereby requests entry and consideration of the Request for Reconsideration filed on August 13, 2004.

Enclosed herewith is a copy of the return-postcard received from the USPTO evidencing receipt by the Office of the Request for Reconsideration. Also enclosed is a copy of the Request for Reconsideration filed on August 13, 2004.

It is believed that no fee is due with this request, however, if any fees are due with this request or the Request for Reconsideration originally filed on August 13, 2004, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-1290.

Please direct any inquiries regarding this request to the applicant's undersigned attorney, who may be reached directly by telephone at (212)940-8712.

Respectfully submitted,



Linda S. Chan  
Reg. No. 42,400

Attorney Docket No.: 2698/MEINKE/PCT (053735-00056)

Katten Muchin Zavis Rosenman  
575 Madison Avenue  
New York, NY 10022-2585  
Phone: (212)940-8800

## PATENTS

(063735-00056)

TO: Assistant Commissioner for Patents  
Serial/Patent No. 09/331,705 AUG 20 2004  
Filing date 10/21/97 2004  
Inventor(s): ESCHE, Ulrich et al.  
Title: Hydraulic Circuit for a Hydraulic Excavator

Atty Docket No. 2698/MEINKERDate Mailed 8/13/04 PCTAttorney L S Chan

The U.S. Patent & Trademark Office stamp herein acknowledges receipt of the following:

<input type="checkbox"/> Application (Utility _____ or Design _____)	<input type="checkbox"/> Total Pages _____
<input type="checkbox"/> Preliminary Amendment	<input type="checkbox"/> Sheets of Drawings (Figs. _____)
<input type="checkbox"/> Declaration and Power of Attorney	<input type="checkbox"/> Fee Transmittal Sheet
<input type="checkbox"/> Transmittal Letter	<input type="checkbox"/> Response to Missing Parts
<input type="checkbox"/> Small Entity Form	<input type="checkbox"/> Amendment
<input type="checkbox"/> Assignment and Cover Sheet	<input type="checkbox"/> IDS & Citation in Application Form
<input type="checkbox"/> Response to Office Action	<input type="checkbox"/> Certified Copy of Priority Document
<input type="checkbox"/> Petition _____	<input type="checkbox"/> Check(s) # _____ for \$ _____
<input type="checkbox"/> Certificate of Mailing	<input type="checkbox"/> Letter to Official Draft Person
<input checked="" type="checkbox"/> Express Mail Certificate-Label # <u>EV 332246119 US</u>	<input type="checkbox"/> Corrected Figures
<input checked="" type="checkbox"/> Other: <u>EV 332246119 US</u>	<input type="checkbox"/> Request for Refund of Fee

Request for Reconsideration of Earlier Filed Petition Under  
37 CFR 1.137(b)

DT02 Rec'd PCT/PTO 13 AUG 2004

Ser. No. 09/331,705  
Page 1 of 2**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor : **ESCH, Uwe et al.**  
Title : **Hydraulic Circuit for a Hydraulic Excavator**  
Serial No. : **09/331,705**  
PCT No. : **PCT/EP97/05792**  
Int. Filing Date : **October 21, 1997**  
Priority Date : **December 19, 1996**

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 pursuant to 37 CFR 1.10 on the date shown below as  
Express Mail Receipt No. EV 332246119 US  
Name: Ralisa Subhaw  
Signature: R. Subhaw  
Date: August 13, 2004

August 13, 2004

MAIL PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)**

To the Commissioner for Patents:

Applicant filed a "Petition to Revive Unintentionally Abandoned Application Under 37 CFR § 1.137(b)" on June 29, 2004. A decision on the petition dated August 6, 2004 was issued. Although the decision noted that the explanation and statement filed were sufficient to show that "the delay in responding to the decision mailed 21 February was unintentional" it was noted that the declaration submitted in response to the Notification of Missing Requirements was a partial declaration and thus did not comply with 37 CFR 1.497(a) and (b).

Applicant hereby submits the declaration in whole. Pages 1 and 2 of the declaration submitted with the response filed on June 29, 2004 were inadvertently omitted. The enclosed

Ser. No. 09/331,705  
Page 2 of 2

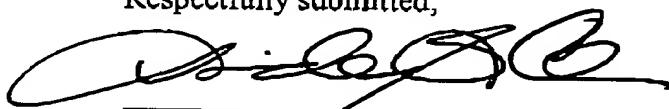
declaration is a copy of the full declaration, pages 1 through 3 with the citizenship of the inventors clearly indicated thereon. It is requested that this declaration be accepted in place of the partial declaration originally filed with the petition dated June 29, 2004.

In view of the foregoing, it is respectfully requested that the current application be revived and returned to prosecution.

It is believed that no fee is due with this request for reconsideration. However, if any fee is due with this paper, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 50-1290.

Please direct any inquiries regarding this request to the applicant's undersigned attorney who can be reached by telephone directly at (212)940-8712.

Respectfully submitted,



Linda S. Chan  
Reg. No. 42,400

Attorney Docket No.: 2698/MEINKE/PCT (053735-00056)

Customer Number: 026304  
Phone: (212)940-8800  
Fax: (212)940-8776

Friedman Siegelbaum Docket No.: 2698/Meinke

**Declaration and Power of Attorney for Patent Application**  
**Erklärung Für Patentanmeldungen Mit Vollmacht**  
**German Language Declaration**

Als nachstehend benannter Erfinder erkläre ich hiermit an Eide  
Statz.

dass mein Wohnsitz, meine Postanschrift, und meine  
Staatsangehörigkeit den im Nachstehenden nach meinem Name  
aufgeführten Angaben entsprechen,

dass ich, nach bestem Wissen der ursprüngliche, erste und  
alleinige Erfinder (falls nachstehend nur ein Name angegeben  
ist) oder ein ursprünglicher, erster und Miterfinder (falls  
nachstehend mehrere Namen aufgeführt sind) des Gegenstands  
bin, für den dieser Antrag gestellt wird und für den ein Patent  
beantragt wird für die Erfindung mit dem Titel:  
**"Hydraulic Circuit for a Hydraulic Excavator"**

deren Beschreibung  
(zutreffendes ankreuzen)

hier beigefügt ist.

am \_\_\_\_\_ unter der  
Anmeldungsnummer \_\_\_\_\_  
eingereicht wurde und am \_\_\_\_\_  
abgeändert wurde (falls tatsächlich abgeändert). \_\_\_\_\_

Ich bestätige hiermit, dass ich den Inhalt der obigen  
Patentanmeldung einschließlich der Ansprüche durchgelesen  
und verstanden habe, die eventuell durch einen Zusatzantrag  
oben erwähnt abgeändert wurde.

Ich erkenne meine Pflicht zur Offenbarung irgendwelcher  
Informationen, die für die Prüfung der vorliegenden Anmeldung  
in Einklang mit Absatz 37, Bundesgesetzbuch, Paragraph  
1.56(a) von Wichtigkeit sind, an.

Ich beanspruche hiermit ausländische Prioritätsvorteile gemäß  
Abschnitt 35 der Zivilprozeßordnung der Vereinigten Staaten  
Paragraph 119 aller unten angegebenen Auslandsanmeldungen  
für ein Patent oder eine Erfindersurkunde, und habe auch alle  
Auslandsanmeldungen für ein Patent oder eine Erfindersurkunde  
nachstehend gekennzeichnet, die ein Anmeldedatum haben, das  
vor dem Anmeldedatum der Anmeldung liegt, für die Priorität  
beansprucht wird.

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated  
below next to my name.

I believe I am the original, first and sole inventor (if only one  
name is listed below) or an original, first and joint inventor (if  
plural names are listed below) of the subject matter which is  
claimed and for which a patent is sought on the invention  
entitled:

the specification of which  
(check one)

is attached hereto.

was filed on \_\_\_\_\_  
Application Serial No. \_\_\_\_\_  
and was amended on \_\_\_\_\_

(if applicable)

I hereby state that I have reviewed and understand the content  
of the above identified specification, including the claims, as  
amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material  
to the examination of this application in accordance with Title  
37, Code of Federal Regulations, §1.56(a).

I hereby claim foreign priority benefits under Title 35, United  
States Code, §119 of any foreign application(s) for patent or  
inventor's certificate listed below and have also identified below  
any foreign application for patent or inventor's certificate having  
a filing date before that of the application on which priority is  
claimed.

16/06 '99 MI 12:14 FAX +49 23 76 DOPAT  
JUN. 9, 1999 4:53PM FRIDMAN SIEGELBAUM+49 23 76 RIEDMAN ISLAM 10004  
NO. 3198 P. 19

## German Language Declaration

Prior foreign applications  
Priorität beansprucht

97/05792 (Number) (Nummer)	PCT (Country) (Land)	21 Oct. 1997 29.10.1997 (Day/Month/Year Filed) (Tag/Monat/Jahr eingereicht)
19652922.0 (Number) (Nummer)	Germany (Country) (Land)	19/12/96 (Day/Month/Year Filed) (Tag/Monat/Jahr eingereicht)

Priority Claimed

<input checked="" type="checkbox"/> Yes Ja	<input type="checkbox"/> No Nein
<input checked="" type="checkbox"/> Yes Ja	<input type="checkbox"/> No Nein

Ich beanspruche hiermit gemäß Absatz 35 der Zivilprozeßordnung der Vereinigten Staaten, Paragraph 120, den Vorzug aller vorangegangenen Anmeldungen und falls der Gegenstand aus jedem Anspruch dieser Anmeldung nicht in einer früheren amerikanischen Patentanmeldung laut dem ersten Paragraphen des Absatzes 35 der Zivilprozeßordnung der Vereinigten Staaten, Paragraph 112 offenbart ist, erkenne ich gemäß Absatz 37, Bundesgesetzbuch, Paragraph 1.56(a) meine Pflicht zur Offenbarung von Informationen an, die zwischen dem Anmeldedatum der früheren Anmeldung und dem nationalen oder PCT internationalen Anmeldedatum dieser Anmeldung bekannt geworden sind.

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

(Application Serial No.) (Anmeldeseriennummer)	(Filing Date) (Anmeldedatum)
(Application Serial No.) (Anmeldeseriennummer)	(Filing Date) (Anmeldedatum)

(Status) (patentiert, anhängig, aufgegeben)	(Status) (patented, pending, abandoned)
(Status) (patentiert, anhängig, aufgegeben)	(Status) (patented, pending, abandoned)

Ich erkläre hiermit, dass alle von mir in der vorliegenden Erklärung gemachten Angaben nach meinem besten Wissen und Gewissen der vollen Wahrheit entsprechen, und dass ich diese eidestattliche Erklärung in Kenntnis dessen abgebe, dass wissentlich und vorsätzlich falsche Angaben gemäß Paragraph 1001, Absatz 18 der Zivilprozeßordnung der Vereinigten Staaten von Amerika mit Geldstrafe belegt und/oder Gefängnis bestraft werden können, und dass derartig wissentlich und vorsätzlich falsche Angaben die Gültigkeit der vorliegenden Patentanmeldung oder eines darauf erteilten Patentes gefährden können.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

## German Language Declaration

**VERTRETUNGSVOLLMACHT:** Als benannter Erfinder beauftrage mit den nachstehend benannten Patentanwalt (oder die nachstehend benannten Patentanwälte) und/oder Patent-Agenten mit der Verfolgung der vorliegenden Patentanmeldungen sowie mit der Abwicklung aller damit verbundenen Geschäfte vor dem Patent- und Warenzeichenamt:

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Stanley I. Rosen, Reg. No. 19,441  
 Richard I. Samuel, Reg. No. 24,435  
 Shaham Islam, Reg. No. 32,507  
 Theresa A. O'Rourke, Reg. No. 40,747  
 Nicholas J. DuBois, Reg. No. 41,719

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 Shaham Islam

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Send Correspondence to:  
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 Seven Becker Farm Road  
 Roseland, New Jersey 07068-1757

Unterschrift des Erfinders

*Uwe Esch*

Datum

*24.6* Juni, 1999

Inventor's Signature

Date

Voller Name des ersten oder ursprünglichen Erfinders:

Uwe Esch

Full name of first or sole inventor

Wohnsitz

Hannoversche 8  
 D-44139 Dortmund

Germany

Staatsangehörigkeit  
 Germany

Residence

Postanschrift

Citizenship

Unterschrift des Erfinders

Datum

*11. Juni, 1999*

Inventor's Signature

Date

Voller Name des zweiten Miterfinders

Gottfried Drieschner

Full name of second joint inventor, if any

Wohnsitz

Kirchhörder Kopf 53  
 D-44229 Dortmund

Germany

Staatsangehörigkeit  
 Germany

Residence

Citizenship